HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 1209 of 2003

Petitioner:		Mani Das, son of Amar Das Mahant, aged about 42 years, Occupation- Ward Boy, presently posted at Primary Health Centre, Vijay Nagar, District- Raigarh (C.G.).
	Versus	
Respondents:	1.	State of Chhattisgarh, through Secretary, Health and Family Welfare Department, Raipur (C.G.).
	2.	Manohar Lal Patel, son of Bhuvneshwar Prasad Patel, aged about 42 years, Occupation- Ward Boy, posted at Primary Health Centre, Binjkot, District- Raigarh (C.G.).
	3.	Mahavir Prasad Patel, B.D.C. Member, haple, Tehsil- Kharsiya, District- Raigarh (C.G.).

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri**.

Shri Awadh Tripathi, Advocate for the petitioner.

Shri Pankaj Shrivastava, Panel lawyer for the Respondent No.1.

ORAL ORDER

(2nd February, 2006)

The following order of the Court was passed by **Satish K. Agnihotri, J.**

1. The petitioner who was working as Ward Boy at Primary Health Centre, Vijay Nagar, District- Raigarh was transferred vide order dated 7.3.2003 to New Primary Health Centre, Binjkot on his own cost. The petitioner has impugned this order on the ground that the petitioner has never applied for transfer as such this transfer order is bad in law by depriving the petitioner the cost of transfer, which is admissible and payable in case, the transfer order is

made due to the administrative exigency. This Court by interim order dated 26.4.2003 allowed the petitioner to continue on the same place of posting, if he was not relieved.

2. Learned counsel for the petitioner submits that by virtue of this court's order dated 26.4.2003, the petitioner has continued on the same old place of posting and the impugned order was never given effect to in respect of the petitioner. The petitioner has been granted final relief as even by quashing of the transfer order, the petitioner could not continue at one place forever.

3. It is well settled principle of law that transfer is an incident of service and it is for the employer to decide as to where a particular officer/employee be posted keeping in view public interest as well as administrative exigency. This Court has limited jurisdiction to interfere in the transfer matter and this Court can interfere only in the case of proved malafide, non-competence of authorities passing the transfer order and not in conformity with the rules and regulations. In the facts and circumstances of the case, it is not necessary to examine validity of the transfer order at this stage. The respondents are directed not to insist upon compliance of the impugned transfer order, in the fats of the case.

4. This petition has become infructuous with the passage of time. Accordingly the petition is dismissed as having become infructuous. However, respondents/authorities are at liberty to pass appropriate order for posting the petitioner in the public interest and administrative exigency any where. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Thakur